

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG RIVERS ELECTRIC CORPORATION'S )  
PROPOSED MECHANISM TO CREDIT TO CUSTOMERS ) CASE NO. 94-453  
AMOUNTS RECOVERED IN JUDICIAL PROCEEDINGS )  
INVOLVING FUEL PROCUREMENT CONTRACTS )

O R D E R

Kentucky Industrial Utility Customers ("KIUC") made several motions in this matter. It requests an informal conference and the establishment of a procedural schedule in this matter. It further requests that the Commission take administrative notice of payments which Big Rivers Electric Corporation ("Big Rivers") has received from its fiduciary insurance company for the alleged wrongful acts of its former General Manager William Thorpe. No responses to these motions have been received.

The Commission finds that KIUC's motion for an informal conference should be denied. The issues which KIUC wishes to place on the conference's proposed agenda are outside the scope of this proceeding. While the Commission is greatly interested in Big Rivers' negotiations with the Rural Utility Service, its litigation to recover damages resulting from improper or illegal conduct involving its fuel procurement contracts, and Big Rivers' financial restructuring committee, other forums than this proceeding are better suited to discuss these subjects.

The Commission further finds that KIUC's motion to establish a procedural schedule should be denied at this time. Before establishing any procedural schedule, the Commission must identify

the procedures necessary to ensure a meaningful discussion of the issues presented by Big Rivers' proposal and its Order of July 21, 1994 requiring the development of a recovery mechanism. No party has requested a hearing in this proceeding. For that matter, the Commission fails to see how any of the issues presented in this case are conducive to an evidential hearing.

Before establishing any procedural schedule, the Commission finds that the parties should identify the issues related to the recovery mechanism which require additional review and comment. The parties should also identify the best avenues for making this review and for providing comment. After reviewing the parties' submission, the Commission will determine whether further proceedings are required on this matter.

Finally, the Commission finds that KIUC's motion to take administrative notice of payments which Big Rivers has received from its fiduciary insurance company for the alleged wrongful acts of William Thorpe should be granted.

IT IS THEREFORE ORDERED that:

1. KIUC's motions for an informal conference and for a procedural schedule are denied.
2. KIUC's motion that the Commission take administrative notice of Big Rivers' receipt of \$490,000 from its fiduciary insurance company for alleged wrongful acts of William Thorpe is granted.
3. Within 20 days of the date of this Order, the parties shall respond to the following questions:

A. Should the recovery mechanism cover proceeds of any insurance reimbursements to Big Rivers for wrongful or improper acts of its current or former employees which involve Big Rivers coal contracts or fuel procurement practices?

B. What issues, if any, which have not been raised previously in this proceeding, should be addressed in this proceeding?


C. Is a hearing in this matter required?

D. (If yes) Why is a hearing necessary? What evidence do you expect to offer at such hearing?

E. If no hearing is required, what additional proceedings (e.g. oral arguments, submission of written briefs) should the Commission require?

Done at Frankfort, Kentucky, this 11th day of May, 1995.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

  
Executive Director